

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JOHN BOWMAN, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 4:21-cv-01406-NAB
)	
ROBERT L. CHAMBERS, <i>et al.</i> ,)	
)	
Defendants.)	

JOINT STIPULATION OF UNCONTESTED FACTS

The Bowman Plaintiffs and Arps Plaintiffs (together, “Plaintiffs”), and Defendants, by and through their respective undersigned counsel, hereby stipulate to the following facts as uncontested for purposes of the trial of this case:

1. Plaintiffs John Bowman, Karen Cloyd, Glenn Koenen, Susan Meredith, Tommie Pierson, Jr., Dana Sandweiss and Brian Wingermuehle (collectively, the "Bowman Plaintiffs") are citizens and residents of St. Louis County, Missouri, and are registered voters, respectively, in the 1st, 7th, 6th, 2nd, 4th, 5th and 3rd County Council Districts.

2. The Bowman Plaintiffs were the Democratic members of the 2021 St. Louis County Council Bipartisan Reapportionment Commission (the “Commission”). Bowman Plaintiff John Bowman served as the Democratic chairperson and Brian Wingermuehle served as the Democratic secretary of the Commission.

3. Plaintiffs Becky Arps, Rene Artman, Adam Bohn, Rita Heard Days, Tim Fitch, Mark Harder, Lisa Kaliski, Amy Poelker, June Schmidt, Kelly Stavros, Ernie Trakas and Richard Wolfe (collectively, the “Arps Plaintiffs”) are citizens and residents of St. Louis County, Missouri, and are registered voters, respectively, in the 1st, 3rd, 3rd, 1st, 5th, 3rd, 7th, 1st, 2nd, 4th, 1st,

6th, and 1st County Council Districts.

4. Arps Plaintiffs Becky Arps and Adam Bohn were Republican members of the Commission and, for a time, before being replaced, Arps Plaintiff Amy Poelker also was a Republican member of the Commission. Arps Plaintiff Beck Arps served as the Republican chairperson and Adam Bohn served as the Republican secretary of the Commission.

5. Arps Plaintiffs Rita Heard Days, Tim Fitch, Mark Harder and Ernie Trakas are incumbent members of the St. Louis County Council from, respectively, the 1st, 3rd, 7th and 6th County Council Districts. Ms. Days is a Democrat and is the current Chair of the St. Louis County Council. Messrs. Fitch, Harder and Trakas are Republicans.

6. The terms of Ms. Days and Messrs. Fitch and Harder will expire on the second Tuesday of January, 2023, and their successors are to be elected in primary and general elections held in 2022. Each of Ms. Days and Messrs. Fitch and Harder plans to run for reelection.

7. Defendants Robert L. Chambers, Patricia Yaeger, Marsha E. Haeffner and Florence Hill are the duly appointed, qualified and acting members of the Board of Election Commissioners of St. Louis County, Missouri (collectively the “Board of Election Commissioners” or “Defendants”).

8. Defendants comprise all members of the Board. This action is brought against Defendants in their official capacities as members of the Board and the officials in charge of elections in St. Louis County, in particular with respect to the Council Districts challenged in this action.

9. This action arises under the Constitution and laws of the United States, and this Court therefore has jurisdiction pursuant to 28 U.S.C. § 1343(a)(3) and (4) and 42 U.S.C. § 1983.

10. An actual controversy exists between Plaintiffs and Defendants so that this Court

may declare the rights and other legal relations of the parties under 28 U.S.C. § 2201, and may grant other or further relief to Plaintiffs under 28 U.S.C. § 2202.

11. Plaintiffs' claims arose in St. Louis County, where they reside and vote. Defendants also reside in St. Louis County, which lies within the Eastern District of Missouri. Accordingly, venue lies within the Eastern District of Missouri pursuant to 28 U.S.C. § 1391(b).

12. St. Louis County is divided into seven (7) County Council Districts pursuant to § 2.020 of the 1979 Charter of St. Louis County (the "County Charter").

13. The current County Council Districts were determined by a Judgment and Memorandum and Order entered on February 23, 2012, by the Honorable Terry I. Adelman, United States Magistrate Judge, U.S. District Court for the Eastern District of Missouri, in a case styled *Stenger v. Kellett*, No. 4:11-cv-2230-TIA.

14. According to the 2020 U.S. Decennial Census, the total population of St. Louis County, Missouri, is 1,004,125.

15. According to the 2020 U.S. Decennial Census, the population of the seven County Council Districts, as those districts are presently defined, is:

<u>District No.</u>	<u>Population</u>
1	127,640
2	145,224
3	148,797
4	139,770
5	149,235
6	145,746
7	147,713

16. The population of St. Louis County is not equally apportioned between and among the seven County Council Districts as those districts are presently defined. The total population of St. Louis County per the 2020 U.S. Decennial Census, 1,004,125, divided by seven, is 143,446. If the County Council Districts all were to be equal in population according to the 2020 U.S. Decennial Census, each County Council District would have an "ideal" population of 143,446.

17. According to the 2020 U.S. Decennial Census, the County Council Districts as presently drawn deviate from an "ideal" population of 143,446 by the following numbers of residents and percentages:

<u>District No.</u>	<u>Deviation</u>
1	-15,806 (-11.02%)
2	+1,778 (+1.24%)
3	+5,351 (+3.73%)
4	-3,676 (-2.56%)
5	+5,789 (+4.04%)
6	+2,300 (+1.60%)
7	+4,267 (+2.97%)

18. The maximum deviation from the least populous to the most populous County Council District is 21,595, or 15.05%. The average deviation among the Districts from the ideal population is 5,567, or 3.88%.

19. On or about May 28, 2021, the Commission was established, pursuant to § 2.035 of the County Charter, by County Executive Dr. Sam Page appointing fourteen (14) members of the Commission – seven (7) Democrats and seven (7) Republicans.

20. Section 2.035 of the St. Louis County Charter provides, in part:

The commission shall reapportion the council districts by dividing the population of the county by the number of council districts established by this charter so that the population of each district shall, as near as possible, equal that figure and so that each district shall be composed of contiguous territory as compact as may be. Not later than six months after the population of St. Louis County is reported to the president of the United States after each decennial census or six months after the appointment of the commission by the county executive, whichever is later, the commission shall file with the county clerk and with the office or officer charged with conduction elections in the county a final statement of the numbers and the boundaries of the districts together with a map of the districts. The final statement must receive the affirmative vote of a majority plus one of all the members. . . .

21. Pursuant to § 2.035 of the County Charter, the terms of the members of the Commission expired at 12:01 a.m. on November 29, 2021. The Commission neither adopted a reapportionment plan for the County Council Districts nor filed a final statement of reapportionment of districts based upon the 2020 Census in accordance with § 2.035 of the St. Louis County Charter. True and correct video recordings of the St. Louis County Bipartisan Reapportionment Commission meetings can be accessed for the November 8, 2021 meeting at <https://www.youtube.com/watch?v=EvDZJG2dVAE>, for the November 15, 2021 meeting at <https://www.youtube.com/watch?v=vDt5gKxYwIE>, and for the November 22, 2021 meeting at <https://youtu.be/AmVhZy7PZ3c>.

22. Where, as here, the Commission does not adopt a reapportionment plan and file a final statement of reapportionment of districts, in accordance with § 2.035 of the County Charter, the Charter makes no provision for extending the term of the Commission, reconvening the Commission or accomplishing the reapportionment of the County Council Districts by any other means.

23. Under §§ 2.020, 2.040 and 2.160 of the County Charter, County Council members must be elected from districts; they may not be elected at large.

24. Section 2.040 of the County Charter provides that Council members from the odd-numbered Council Districts (1, 3, 5 and 7) are to be elected in 2022.

25. Pursuant to applicable law, candidates for election to such Council seats may begin filing declarations of their candidacy with the Board of Election Commissioners on February 22, 2022, with the last day of permissible filing being March 29, 2022.

26. The Commission's failure to adopt and file a plan and map for the reapportionment and redrawing of the Council Districts leaves existing Council Districts that are now unequal in population following the 2020 Census.

27. Accordingly, the vote of each qualified resident of the County is not given equal weight to those residing in other Council Districts, and the current apportionment and existing Council Districts violate the principle of "one person, one vote."

28. If the 2022 Council elections are held using the existing Council Districts, which are based on the 2010 Census, Plaintiffs' rights to equal protection of the laws under the Fourteenth Amendment to the Constitution of the United States, and to equal rights and opportunity under the law pursuant to Article I, Section 2 of the Missouri Constitution, will be violated.

29. Article II, Section 2.035 of the St. Louis County Charter requires that St. Louis County be divided into seven (7) Council Districts meeting the requirements that the population of each district shall, as near as possible, be equal in population, and that each district shall be composed of contiguous territory as compact as may be. The Districts may not be in violation of the Constitutions of the United States and Missouri, or the federal Voting Rights Act, 52 U.S.C. §§ 10101 *et seq.*

30. Arc GIS mapping software ("Arc GIS") is a geographic information system, developed and licensed by a company known as Esri, and is widely used by various industries and

agencies, including St. Louis County, to analyze geographic information.

31. For the purpose of redistricting or reapportionment generally, and this case in particular, ArcGIS allows a user with the appropriate data to analyze population and demographic information within the geographic boundaries of St. Louis County.

32. Arc GIS is a reliable geographic information system typically relied upon by practitioners and experts in the reapportionment and redistricting field.

33. Shapefiles are the data files for Arc GIS that combine both geographic and other data.

34. The data and information from the 2020 U.S. Decennial Census depicting the population and demographic characteristics of St. Louis County, as published by the U.S. Bureau of Census, may be introduced into evidence or used by any witness at the trial of this case without further authentication or proof of foundation regarding the accuracy of such data and information.

35. The data and information from the 2010 U.S. Decennial Census depicting the population and demographic characteristics of St. Louis County, as published by the U.S. Bureau of Census, may be introduced into evidence or used by any witness at the trial of this case without further authentication or proof of foundation regarding the accuracy of such data and information.

36. Subject to any ruling on a motion in limine or objection to trial designation, the data and information maintained and provided by the St. Louis County government, which is accessible at the addresses set forth below, may be introduced into evidence or used by any witness at the trial of this case without further authentication or proof of foundation regarding the accuracy of such data and information.

<https://stlcogis.maps.arcgis.com/apps/webappviewer/index.html?id=993805a0008e4656970a3896cd24fad8>

<https://data-stlcogis.opendata.arcgis.com/search?q=reapportionment>

<https://data.stlouisco.com/datasets/stlcogis::2020-apportionment/about>

37. The data and information maintained and made accessible by the Board of Elections concerning voting in St. Louis County in any election may be introduced into evidence or used by any witness at the trial of this case without further authentication or proof of foundation regarding the accuracy of such data and information.

38. In the event that the Court elects to draw a map providing for different districts, it is the strong preference of the Defendants that such districts do not divide census blocks or cross precinct boundary lines.

Respectfully submitted,

/s/ Gerald P. Greiman

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